

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Rodney P. Paxton,	:	
Plaintiff	:	Civil Action 2:07-cv-600
v.	:	Judge Sargus
Michael J. Astrue,	:	Magistrate Judge Abel
Commissioner of Social Security,		
Defendant	:	

**ORDER**

By an Order of June 23, 2008, the Court remanded this case to the Commissioner to properly evaluate the opinion of Dr. Lloyd Dennis, in accordance with 20 C.F.R. § 404.1527(d)(2), to determine whether there is objective medical evidence of an underlying medical condition, whether that evidence confirms the severity of the alleged impairment arising from the condition, and whether the objectively established medical condition is of such a severity that it can reasonably be expected to produce the alleged disability; and to consider the combined impact of plaintiff Paxton's cognitive impairment and diabetes. This matter is now before the Court on plaintiff's unopposed July 2, 2008 motion for attorney's fees under the Equal Access to Justice Act ("EAJA").

Under the EAJA, 28 U.S.C. §2412(d)(1)(A):

[A] court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action . . . including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United

States was substantially justified or that special circumstances make an award unjust.

Here, having reviewed the record and the merits briefs of the parties, the Court finds that the Commissioner's position was not substantially justified.

Accordingly, the Court HOLDS that plaintiff's July 2, 2008 motion for fees under the EAJA (Doc. 23) is meritorious; and, therefore, it is GRANTED. Plaintiff Rodney P. Paxton is AWARDED attorney fees in the amount of Four Thousand Thirty-four Dollars and Fifty-four Cents (\$4,034.54).



8-28-2008

Edmund A. Sargus, Jr.  
United States District Judge